

Applicant : Nai-Kong CHEUNG Atty. Dkt. # : 639-C-PCT-US
USSN : 10/565,484 Art Unit : 1623
Filed : 01/17/2006 Date of Office Action : 12/17/2008
Examiner : Eric Olson Date of Response : 03/10/2008
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REMARKS

Claims 14-17, 19-25 and 27-29 are pending in the application. In order to expedite the prosecution of the application, Applicant has amended claims 14 and 22. Support for the amended claims can be found, *inter alia*, on page 4 of the specification, lines 1 and 7, and on page 7, line 26.

Accordingly, Applicant submits that there is no issue of new matter, and respectfully requests entry of the Amendment. Upon entry of the Amendment, claims 14-17, 19-25 and 27-29 will be pending and under examination in the application.

Rejection Under 35 U.S.C. § 102

In the December 17, 2008 Office Action (pages 3-5), the Examiner rejected claims 14-17, 19-25 and 27-29 under 35 U.S.C. § 102(e) as being anticipated by Ostroff et al. (U.S. application publication 2006/0165700).

In response, Applicant respectfully traverses the rejection. MPEP 706.02(IV) states that:

"[F]or anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not taught must be inherently present."

Applicant submits that Ostroff et al. discloses "a method of antitumor therapy in which insoluble β -glucan is used . . ." (paragraph 0010), and recites in claim 1 "a therapeutically effective amount of insoluble β (1,3; 1,6) whole glucan

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particles . . ." In contrast, the presently claimed glucan is a soluble glucan. Please see specification, for examples, page 4, lines 1 and 7, and page 7, line 26. Without conceding the correctness of the Examiner's position, and to expedite the prosecution of this application, Applicant has amended claims 14 and 22 to recite a soluble β -glucan. Therefore, the claimed composition as recited in claims 14 and 22 cannot be anticipated by Ostroff et al. because the presently claimed glucan is soluble while the reference glucan is not. Likewise, the limitations on the composition as recited in the dependent claims can also not be anticipated by Ostroff et al. Accordingly, Applicant respectfully requests that the rejection of claims 14-17, 19-25 and 27-29 under 35 U.S.C. § 102(e) be withdrawn.

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CONCLUSION

Applicant contends that this amendment has fully addressed the Examiner's rejections discussed in the December 17, 2008 Office Action, and should not raise additional issues. Therefore, this application is in full compliance with all requirements. Accordingly, Applicant respectfully urges the Examiner to place this application in conditions for allowance.

If a telephone interview would be of assistance in advancing the prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided below. If any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 50-1891.

Respectfully submitted,

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